

LAKE COUNTY PLANNING BOARD
March 9, 2016
Lake County Courthouse, Large Conference Room (Rm 316)
Meeting Minutes

MEMBERS PRESENT: Steve Rosso, Steve Shapero, Sigurd Jensen, Janet Camel, Rick Cothorn, Bob Stone, Eileen Neill, Jerry Parson

STAFF PRESENT: LaDana Hintz, Robert Costa, Lita Fonda, Wally Congdon

Steve Rosso called the meeting to order at 7:29 pm. (Delay was due to long-running Board of Adjustment meeting.)

For the January minutes, Steve R revised the following. On pg. 2, in the last three lines of the 3rd paragraph, 'wash' changed to 'stormwater' in two places. 'Development' was added at the end of the 6th line of the last paragraph. On pg. 3 in the 5th line of the 2nd paragraph, 'exactions' changed to 'extractions'. 'Reinventing' changed to 'reinvented' in the 11th line of the 2nd paragraph on pg. 10. **Motion by Rick Cothorn, and seconded by Sigurd Jensen, to approve the Jan. 13, 2016 meeting minutes as amended. Motion carried, all in favor.**

For the February minutes, Steve R corrected 'responsibly' to 'responsible' in the last line of page 5. On pg. 6, 'that in terms of use' was changed to 'that, in terms of using' in the 6th line of the first paragraph. In the 3rd line from the end of the second paragraph, 'on the bottom' was changed to 'high'. **Motion by Sigurd Jensen, and seconded by Rick Cothorn, to approve the Feb. 10, 2016 meeting minutes as amended. Motion carried, 7 in favor (Steve Rosso, Steve Shapero, Sigurd Jensen, Rick Cothorn, Bob Stone, Eileen Neill, Jerry Parson) and 1 abstention (Janet Camel).**

KEARL LAKESHORE POLICY COMPLIANCE (7:37 pm)

Robert Costa introduced the Kearls' agent, Dan Rosser of Sunrise Docks. He explained they were reviewing was an appeal of an administrative decision regarding proper materials for use in the lake. He presented the staff report. (See attachments to minutes in the March 2016 meeting file for staff report.)

Rick asked if grandfathered docks would be impacted. Robert replied if they were put in the lake prior to the effective date of the regulations, they could be repaired and modified. LaDana recalled a fairly recent review the Board saw along those lines.

Jerry didn't find a specific prohibition of tires filled with Styrofoam in the regulations. He asked if they should change the regulations. LaDana explained they'd started the process to revise the regulations a few years ago. They were to a point where they needed to pull a draft set of regulations together. Steve R didn't recall if they dealt with tires specifically. They did deal with materials that would leach chemicals into the lake, such as treated lumber and paint.

For the approved materials for a floating dock where hard plastic was filled with Styrofoam, Steve S asked if the hard plastic was inert in the sense that it wouldn't leach. Robert reported he

looked into this. The job builders needed to pick their plastics carefully. The plastics were designed for different temperatures. Steve S checked that the regulations didn't specify [which ones] they would be required to use. Robert affirmed. Steve R said the dock approved in 2013 was approved with different floats than tire floats. The dock that was built didn't match what the permit said.

Jerry checked that plywood was considered treated material. Several people answered yes. Robert explained the provisions for materials stated that the wood was to be untreated in its natural state. If you considered that plywood was essentially chips, it wasn't in its natural state.

Dan Rosser passed around some color photos. (See attachments to minutes in the March 2016 meeting file for photos.) He talked about the dock in questions. It was permitted for tub floatation. The environment at that location was rough water and he knew the customer would be hard on the dock given the way it would be taken out. He elected to go with tire floatation, which he'd used for 30 years in other locations and states. What he found in the regulations was that Styrofoam must be encased in rubber, or mesh with a 1/8-inch gap. He presumed tires were okay because they were rubber. He gave examples of places with tire docks, such as in Big Arm and in Whitefish Lake. He explained why he disagreed with the response from the City of Whitefish about Whitefish Lake and gave background on permitting there. Turning to the dock in question, the only pressure-treated lumber might be the fascia board but it wasn't really pressure-treated lumber. It was sunshine wood. Something was sprayed on the wood that went away after a few years. He disagreed that plywood polluted the water.

Dan compared Swan Lake to Lake Wenatchee, Washington. He installed numerous tire floatation docks there. It hadn't hurt the salmon hatcheries there. Both lakes were free-filling.

When the dock design changed, Steve R asked if this was discussed with the client. Dan said they agreed. He mentioned he could replace the sunshine wood fascia board with non-pressure treated wood. The change from tire floatation to tub floatation was a major undertaking. He had to remove the dock from the lake and add framework to the underside. Steve R and Steve S noted when the spray coating on the lumber went away, it went into the water. That was the problem.

Steve S asked how it was that the use was rough. Dan said that particular area was rough. Tire floatation cut the waves better because the tires were round. When a wave hit the dock, the water swirled around that and went out the other side. Steve S asked about the tub floatation. Dan said the tub floatations were rectangular, not barrel-shaped, and fit underneath the dock. The edges were squared off. He used 2 feet wide by 4 feet long by 12 inches deep. He described the way the tubs were attached with flanges around the top part that were lagged into the framework. Over time, the lags worked out of the wood. In tire floatation, they bolted down through the middle of the tire to a skid board, so it was tougher. He didn't approve of the mesh, which was in the County regulations. It wouldn't last 5 years and then released Styrofoam bb's into the environment. In some lakes, you saw Styrofoam residue around the shoreline

Steve R asked what kept the Styrofoam in the tires. Dan replied plywood. Steve R asked where Dan got them. Dan said he used to make them but now he bought them from Washington. Steve

R asked if they put a piece of plywood across the bottom of the tire. Dan replied that he did that. Steve R confirmed with Dan that there was exposed Styrofoam surface in the middle of the tire. Dan described putting two plywood pieces, one on the top and one on the bottom, and a skid board underneath and a framework on top. [The tires] were compressed in there. They drilled one hole through the middle and added a big bolt. They were tough. When tub floatation came up against a rocky shoreline in weather, it wore a hole in the tub and the Styrofoam came out. Also you couldn't have the tub floatation in icy conditions. Jerry asked about the materials that were skid underneath the tire. Dan said skid was 2 x 6 normally. Some lake regulations required a block underneath the skid board to keep the skid board off of the water. Steve R asked about the number of tires used compared to tubs. Dan gave the numbers of 24 tires versus 8 tubs. Steve R confirmed with Dan that the tub sections weighed much less than those built with tires. Don said that heavy meant stability in the dock business. Steve R suggested the tire floatation docks seemed to handle the waves better because of the weight rather than the shape. Don mentioned they were more of a pain to get out in the winter. He answered questions about the how the docks were assembled, including the wheels.

Steve S checked that the Washington lake with the fishery had salmon that migrated to the ocean. Dan thought the salmons didn't spend much time in the lake. They spawned in the tributary above the lake. Steve S suggested those fish were more like visitors in the Washington lake compared to the fish here who spent years and years in the lake. Eileen asked about trout fishing in the lake. Dan said it was full of bull trout, which you could catch and release.

Janet asked how the volume of water in Lake Wenatchee compared to Swan Lake. Dan said it was about 7 miles long. It wasn't very wide. It was 200 feet deep at one point. His point was that both lakes had a natural flow of water.

Nicolas Jacobs of Bigfork asked if the foam under discussion was expanded polystyrene and Dan confirmed. Dan gave more detail on polystyrene approved for marine use. He repeated that the regulations needed to say exactly what [materials] you wanted. He recommended against the allowance of mesh.

Steve R confirmed with Dan that he had clients in both Flathead and Swan Lakes and did both floating and pier docks. Steve R asked what the percentage was between floating docks and pier docks in Montana. Dan said the majority of his tire docks were in Whitefish Lake. Steve R checked if the majority of the docks he'd built over the years for this area had been tub docks. Dan said it was more economical for him because he bought the tubs from Idaho. The tires involved a shipping cost. He would go solidly with the tub floatation from now on [in this area].

Wally gave three notes. The ordinance said rubber, not nylon. Tires were made of nylon. They didn't comply with the existing rule. The plywood pieces under the tires were also treated material. They weren't natural. They didn't comply either. That was a big issue. If you really wanted to float a pier and make it last, he would build his floatation from scrap. He'd use stainless steel in the form of beer kegs or the barrels used for shipping soda fountain syrup. They were heavy. You could bury one and it would easily last 60 or 70 years. They were \$7 each if you bought them as scrap. Dan said they would sink if they had a hole. Wally said they didn't get holes so they didn't sink. If you were worried about a hole, then you could shoot in foam.

They worked. There was a way to do it that was not Styrofoam, not polystyrene, not tires and not rubber blocks. Eileen asked if it would be a removable dock that could be pulled out in winter. Wally said you could pull it out. A lot of docks in Wisconsin and Minnesota were built that way. The problem was they were heavy. Dan said you couldn't fill that with polystyrene. Wally said you could shoot it with insulation of urethane foam to seal in case they ever got a leak. There was a way to do it. He returned to his points that plywood didn't conform, the end board didn't conform and the ordinance said rubber, not nylon. Tires hadn't been rubber since 1946. That quit after the war and virtually everything was rayon or nylon. That was why it broke down in ultraviolet lights.

Public comment opened:

Nicolas Jacobs introduced himself as a recycling enthusiast. The legal notice caught his attention and he wanted to hear the discussion. He had a couple of comments based on the discussion, not having read the staff report. He understood the practicality of using recycled materials for a business. Tires were indigenous to pretty much everywhere. To find other uses for those was something they should do. He was a proponent of building houses out of them, rammed full of earth. They weren't exposed to light underground and didn't degrade. There were a lot of environmentally safe uses for tires that he would support. What he was hearing was that tires underwent a remanufacturing process and new artificial materials were added in conjunction with those already there. His biggest concern was that the tires didn't come from here. They came from Washington. If it were feasible to treat the other environmental concerns, there were a lot of tires sitting around in Lake County that could be utilized. He agreed with staff environmental concerns. He'd seen the docks in Minnesota that Wally talked about, which were very environmentally safe. [The barrels] were meant for food grade materials. As motivated as he was to get tires out of landfills and put them to good use, he thought the Planning staff's environmental concerns here were valid and sound. If the clients had environmental concerns, you had polystyrene and tires and plywood, which was a lot of artificial material being put into the lake. There were better ways to do it from an environmental perspective and more practical and more compliant ways to do this from the homeowner's perspective as well.

Public comment closed.

Jerry asked what the decking material was made from. Dan said it was Trex, which was a plastic. Steve S expanded that this was a plastic with some wooden material in it and it had a lot of glue holding it together. It wasn't exposed 100% of the time to the water. Steve R questioned whether it had glue. Steve S explained it had chemicals in it as a bonding material. Dan said 90% of his docks were either Trex or Fibron or some composite decking. Steve S checked that this was no issue with that as far as the regulations. Robert said they'd allowed for Trex historically. Someone said people liked it because there was no maintenance and it lasted. Bob said he's seen some bent up in Woods Bay so it didn't last forever. Dan thanked the group and departed.

Steve R listed a couple of issues. It was hard to balance competing environmental or scientific reports without hard study. He was concerned about the chemicals that Robert found were going

from the tires to the water and the issue of killing fish. The other issue was procedural. You got a permit for a dock that was described in the permit and was agreed upon. Then you built it another way without coming back and saying the design was changed. Rick thought the science might be argued at some level one way or another. It was clear-cut and a bigger problem that they didn't do what they said they'd do. Steve R mentioned that he would have liked to hear from the property owner about agreeing to the switch of materials on the dock design.

Steve R was in favor of backing the Commissioners on their original decision that this dock be rebuilt with the right materials as the permit required or submit a different application. Robert clarified that this was what happened. A new application had been submitted with an additional fee for this review. LaDana clarified this asked for a dock with tires. Steve R didn't think they should go there.

He thought it was important evidence that they would get pushed until they could finish the lakeshore protection regulations. He asked if they needed an amendment to the current regulations in the meanwhile to avoid this problem. LaDana replied that nobody else had asked to have tires. The Board saw the application in the packet, which was compliant and even had a note that said they complied with the standards. They recognized the standards and put the tires on afterwards. She hadn't seen an application for mesh. Typically, it was the tubs. If [the Board] felt they needed to do an amendment, they could try to get that done. Robert didn't think that would be in the public's interest. Steve R thought the staff should be sensitive to the fact that if they were concerned about this, the Planning Board would consider helping with an amendment if the lakeshore regulation revisions were many months away. LaDana thought the Board's decision tonight would set a precedent for this, as Robert pointed out. That was why the Commissioners wanted it to come to the Board. They wanted the additional opinions and thoughts.

When working on the lakeshore draft previously, Steve R didn't think they considered that they couldn't rely on reaching full pool every summer at Flathead Lake. People might start putting in floating docks to deal more easily with the recreation under that circumstance. They hadn't thought about floating docks for Flathead Lake in the draft regulations. Robert said these would be allowed in Flathead Lake. Floating docks were specifically required in Swan Lake and Lake Mary Ronan. If one came in for Flathead Lake, he thought they could approve it. Steve R thought they should consider it more seriously with the new regulations. There might be more demand for floating docks.

Janet concurred with Steve R's comments. She was concerned about cumulative effects from leaching tires. She listed concerns with cadmium (a carcinogen), trout, the smaller volume of Swan Lake and being at the headwaters of the Columbia River Basin. She thought the County standards were good standards. She concurred with the recommendation. LaDana noted people also used this as a drinking water source. She didn't know if they did so at Lake Wenatchee. Wally said that per their findings, it wasn't just a function of the tires. The other part was the treated material, which was the plywood in the water. You had that significant issue as well, plus if it was treated plywood, that was even worse.

Jerry had sympathy for the ambiguity of the description of the rubber-encased Styrofoam but [the contractor] clearly produced a dock that didn't meet what was permitted. He didn't think they could allow him to put it in. Bob thought it was important that they had the reasons so they didn't have a precedent problem next time. The motion should mention that.

Motion made by Janet Camel, and seconded by Steve Shapero:

Approving the dock without significant assurances backed by biological facts could set a precedence with significant impacts. The site contains no apparent constraints that warrant the need for the tire-style dock as opposed to the floating dock that was reviewed and approved in 2013 to have flotation tubs installed. It is not clear that there is really any way to protect the water quality if the proposed project is allowed. There are no apparent mitigation measures proposed if the project does have impacts to water quality, wildlife, etc. and it is not clear that mitigation would even be possible.

For these reasons, the Planning Board finds that the proposed project would have impacts to water quality, wildlife, habitat, and other factors and would not meet the "Policy Criteria for Issuance of a Permit" outlined in Section 5-1 of the Lakeshore Protection Regulations. As demonstrated by the applicant's original proposal, approved under Permit #SHR 13-65S, alternative construction materials are available to construct the dock in compliance with the Lakeshore Protection Regulations. The dock design originally proposed in 2013 and approved by Lake County is similar to the types of development typically approved on Swan Lake. If the dock is corrected to comply with its original approval, the potential impacts to Swan Lake would be significantly reduced or entirely eliminated, allowing the applicant a reasonable, functioning dock while upholding the purpose, spirit, and intent of the Lakeshore Protection Regulations.

This motion is to not approve the new lakeshore application and to have the old permit stand for these reasons, with these two paragraphs and including the findings of fact. The Board agrees with staff and recommends disapproval of the new application and compliance with the original permit. Motion carried, all in favor.

Steve R commented something that was a bit of an issue on the lakes and that people should be aware of was that when you bought a boat hoist, a lot of the manufacturers shipped the hoists with boat bunks that were treated lumber. You needed to replace that with untreated lumber before you put it in the water. Steve S commented a lot of states didn't care.

RIGHT TO FARM DISCUSSION & PUBLIC COMMENT (8:38 pm)

LaDana pointed out the materials regarding the Right to Farm discussion. (See attachments to minutes in the March 2016 meeting file for the materials.)

Janet missed the Dec and Feb meetings. When she read the Montana codes, they seemed specific as far as protecting people's right to farm and agricultural activities. She was confused why this specific regulation was needed if Montana codes already protected agricultural activities.

Wally talked about what a Right to Farm ordinance did. It was a statement where local government said in this jurisdiction, normal operation of agriculture was not a nuisance. It was basically an anti-nuisance ordinance. It was also a statement of policy that drove a lot of other busses. Things like zoning language, growth policy, economic development projects, and housing for agricultural employees could all be consistent with Right to Farm. It was the first time that county government stepped up and said to agriculturists that [the local government] knew they were here and supported them. Local government had to say it because they did the growth policy, subdivision regulations, zoning ordinances and so forth. If local government said they had a policy to support this, they could put it in the other stuff. The state law gave counties the right to say it.

Janet took exception because in MCA 76-2-903 on local ordinances, which she read, local government could not adopt an ordinance or resolution that prohibited existing agricultural activities or forced the termination of existing agricultural practices outside of incorporated cities or towns.

Wally pointed out the difference was that was the land use section. It wasn't the nuisance section. He pointed to MCA 27-30-101, which was cited elsewhere. There was a difference between saying agriculture was a nuisance and regulating as a county. The issue wasn't the County saying it was a nuisance. It was private parties saying it was a nuisance. The difference was that Right to Farm sought to address the tort claim or the nuisance claim issue of the private sector against agriculture, not the government regulating it out of existence. If you had a Right to Farm ordinance, you suddenly had authority and horsepower on things like conservation easements to say do not ban agriculture, and you had standing to say as a matter of policy, [the County] didn't want you to ban agriculture. Janet asked what happened if the land owner who had the conservation easement placed on his property wanted to ban agriculture. Wally said that was the owner's choice. The County could still comment. They would have policy to say they support agriculture and this was why. Bob verified with Wally that this would be asking the landowner rather than telling the landowner. What did that accomplish? Wally said it got a lot of people who took conservation easements or held them to not suddenly ban agriculture. It meant the entity who was asking cared. It acknowledged that agriculture was important.

Bob didn't like that this would create an atmosphere that was slightly tilted towards land management. He was concerned about property rights. Wally said the key was one use of Right to Farm was as a matter of policy that said the County supported agriculture and would say not to ban it. It was still the landowner's choice. Bob agreed, but it did something or Wally wouldn't want to do it. Wally repeated it was a policy statement so what it did was support the policy. Bob asked about tax benefits on land that was labeled agricultural and left to nature. Wally said that was fine. If agriculture was part of your county then step up and support it for the first time. Bob agreed with him. He just wondered about some of the details. Wally said the only way you didn't get to keep agricultural standing was via a current Montana law that said if you didn't have \$1500 of income in a year from it, you didn't qualify for ag anymore. That was a Dept. of Revenue decision. His preference would be to say there was a reason why agriculture wasn't a bad thing. Right to Farm was a policy statement that said it wasn't a nuisance so private parties complaining about it weren't as prone to be able to do it. Janet was right that you couldn't 'law' agriculture in Montana or zone it out of existence. When you reviewed a subdivision, you had to

review agricultural impacts. That had a lot more credibility if you had a Right to Farm ordinance because you made a policy statement that said it mattered. If you didn't have that policy statement, reviewing agriculture in a subdivision was harder to do.

Wally thought the Board members' comments for changes to make were great. He mentioned they had an alternate agriculture person here who had a vegetable place near St. Ignatius. The new agriculture was really the old agriculture. It was here and part of the County, so support it. Right to Farm did that. Steve R said a problem with Right to Farm was they were waving a flag for agriculture. Why weren't they doing it for some other interest, such as mining, or would they end up doing that next? Wally replied there was no state law that talked about a Right to Mine ordinance. Bob asked about hunting and fishing. Wally said there wasn't specific language in the state law about questions of other rights [inaudible]. Agriculture was still the biggest economic driver in the state. It was bigger than mining, coal or tourism. It was also the one most readily shut down by subdivision, development, nuisance, roadways and the rest. It was so prevalent that it was the one most easily adversely impacted by stuff. He gave the Density map language as an example. They wanted to preserve agriculture.

Janet thought subdivision regulations could state agriculture was recognized as not being a nuisance and that people needed to maintain setbacks away from agriculture as they developed their property. Wally said the regulations could incorporate specific setbacks, boundaries, etcetera. That was a specific regulation. Right to Farm was a statement of policy, not a regulation. That was the difference. Robert said the key was they supported one another. LaDana said it supported the Growth Policy. They needed these pieces to get to the regulation part that Janet was getting at. Janet thought some of the pieces could be incorporated into the Growth Policy rather than having a separate policy. Wally said they'd been done as separate policies for years because they worked. They could try to do it the other way. Right to Farm ordinances worked for people, which was why people did it.

Eileen agreed with Janet that there were two really strong state laws that said what the 12-page document said. This was supposed to be educational. As an educator, she knew people had short attention spans. They wouldn't get through 12 pages. It needed to be a lot more concise. As an educator, it bothered her that it cited Montana Code Annotated (MCA) but paraphrased it. The actual law read much more clearly than what was in the document. Getting back to the conservation easement, she didn't see the correlation that this would have something to do with a conservation easement. Her understanding was a conservation easement was a contract between a citizen and someone like Montana Land Reliance. It was a courtesy that they let [the County] review it. Wally clarified that it was state law that the County got to review it and that it was a split of the title rather than a contract. Eileen said the County couldn't change it. The parties weren't bound. Robert reiterated it was a requirement [to allow the comment]. LaDana noted the comment happened before the split. Regarding the correlation, they tried to write some of it in here and talked about it a little bit at the last meeting when John talked about fence heights. A subdivision might fence such that the wildlife couldn't get to the conservation easement where you wanted to protect them. Trying to figure out how to develop around the conservation easement was the tie between the two. When the County reviewed conservation easements, those were the things they would point out to the conservation easement holders.

Eileen returned to the length of the document. 'This is a Right to Farm County' could be put on the license plates and that would get the word out to visitors. How would you get a visitor to read this? Wally said they usually printed them as a short document for that. Jerry asked if there was a polite way to say 'we affirm that there is a right to farm', cite the state law and recognize that certain things that would be considered a nuisance elsewhere, such as noise, dirt and smell, were an inherent part of the history and culture of this county. Wally said they could make it that simple if they would like. That was a good idea. Jerry said they tried to address a lot of complaints. This stated it simply and non-specifically. Eileen thought the draft document seemed cut and pasted from five different sources and not re-edited. Wally thought they could also break it down into sections, such as notification to property owners. There could be a basic statement about new and old agriculture, like encouraging vegetable gardens and cherry orchards, and progressive production, like non-GMO. They could make it shorter and briefer but they could make it specific that way. Keeping it simple was a good rule. Steve S suggested making it one page. Jerry asked if the specifics were covered in state law. Wally said they were not. Robert commented that staff originally proposed the Board could come up with language for this. That hadn't happened yet so staff provided something. Ultimately staff still wanted the Board to come up with something to work with. Bob thought they just had. Janet agreed it should be simple.

Wally asked the agriculturalist in attendance for her opinion. Nicole Jarvis of Moiese said she read the draft in 10 minutes and understood it clearly. She thought it was great. It took her 10 years of living in the valley to learn this and here it was in 12 pages. It would have been really useful when she moved here 10 years ago. She was surrounded by agriculture. She was a farmer. Just last year, she learned that south of a certain street in Moiese, you had to fence your cows in and you had to fence them out north of there. They learned by dealing with this stuff on a daily basis. Had she known before, it would have solved a lot of issues with neighbors. She had a friend who wanted to run an irrigation line where they had a right to do so. The neighbor said they couldn't do that but it was written right here that the neighbor couldn't stop them from doing that. The friend could take this to the neighbor and show this. Eileen noted this was policy [as opposed to law]. Nicole said the average homeowner that just moved to the valley didn't know this [policy].

Janet said on the reservation there was an implied right by the Flathead Indian Irrigation Project (FIIP) that the Project could put in irrigation lines. Nicole replied she didn't know specifics. Her understanding was if they shared a ditch, obviously that neighbor had to be able to get across the other neighbor's land to get to the ditch. Janet said that was her understanding if it was to Project water. The Project could put in that ditch because the Project had that right. That was implied on everyone's title on the Reservation if you were within an irrigation district. She didn't know if it was on everyone's title outside an irrigation district. If [the Board] was going to be more detailed in this policy, they had to say a lot more about the FIIP in there and clean up a lot of the easement language, which complicated the document. If it would be helpful as an educational document and they wanted to include herd districts, they needed more information about the FIIP and easements. Nicole thought anything educational was great. Half the farmers in her valley wouldn't read this but she'd been here for years and didn't know this. Janet thought the educational information could be incorporated into the Growth Policy under the agricultural section also. They could refer to that and see the same educational information. They could

have a simple policy statement and incorporate some of the additional information into the Growth Policy so it was out there for the public.

LaDana wondered if this was put in the Growth Policy, how they would get someone to read a hundred- plus page document if they wouldn't read a 12-page document. Janet suggested they could look at the table of contents and go to the section of interest. Right now, the agriculture section was 2 to 4 pages long. LaDana observed most people weren't going to pick up the Growth Policy document and read it. At least this other document could be whittled down and put in pamphlets and something that could be handed out. She wanted to make sure it would be something that someone would read if they spent time on it. Steve R suggested moving some of the policy statement to the front, with a short and concise focus on the policy and then have an appendix with the details, like with the fence heights and such items. If you wanted the gist of the document, you read the first two pages. If you wanted the details, you could go to the appendix of the Right to Farm document.

Bob gave the example of a new person in the neighborhood seeing someone digging up their property to put in an irrigation ditch. What would the next step be for this person who was upset about something that might be part of the policy? Who would they call? Whoever they called should know where to look for the answer. He wanted to avoid having to pay an attorney to find the answer to something that was already known. This needed to be somewhere so an easy answer would be available. They needed to think about how it would be used. Wally thought this was right. They would first call the sheriff. Part of the reason why it would say on the face of the subdivision plats, on certificates of survey and on the title report that this county had a right to farm ordinance was so you knew to call someone for a copy of it. You could put 'please contact the Planning Office or the County Commissioners to get a copy' on those as well. That tried to solve the problem that Bob talked about. He suggested using Steve R's idea about an initial section with appendices plus Janet's idea of taking a lot of that specific language and plugging it in to the Growth Policy, and also plugging some of the specific regulatory language into the subdivision regulations. This was the building block of part of that conversation. That was why Right to Farm had been done in so many places.

Wally thought the Planning Board was having the conversation they needed to have. They were doing this well. Right to Farm policy was a broad statement that drove a lot of other busses. They applied the tool to the rest once they had it in the tool box. It worked amazingly well. Subdivision regulations could say if you had an organic produce farm next door, you would not spray within 20 feet of the fence. That was a regulation they could enforce. The policy from the Growth Policy and Right to Farm said they desired this. They had the tool in the end. The policy got them there.

Bob asked how they fixed it if they later wanted to use something in the policy but found a bad conflict. Wally said it was easy to amend the Right to Farm ordinance. It was much easier than amending subdivision regulations or zoning.

Nicolas agreed with the idea on how to format that and trying to make it obvious who to call to get that information for property buyers in Lake County. He was a real estate agent. He liked to think that all land buyers looked at their plat maps but that wasn't always the case. Everyone

should know where to find that information. He spoke in favor of having an abstract and commentary type of format where people could get it quickly and read further in for specifics or further information. He thought they were addressing agriculture because it was the most important. They could all agree that they all had to eat. They should vaunt agriculture because it was important to everyone who lived here.

Nicole asked if this was an abbreviation of state policy. Board members answered no. Nicole said she was in favor of a right to farm and ranch. She wondered if 'unless it becomes an environmental hazard' had been included, such as a farm or ranch leaching things into the soil that got into the neighbor's groundwater or polluting the air. She came from an organic background. Last year was the smokiest year in a long time, and farmers burnt their fields when the air pollution was already intolerable. She was for Right to Farm but there was an environmental hazard they needed to address. Wally assured it didn't protect environmental hazards. You couldn't build a feed lot that fed 5,000 cows old potatoes and pollute the water or air. What it preserved was the stuff that was existing, progressive or historic. Nicole asked if something was included in this to do that. Janet thought that was why they would incorporate it in the Growth Policy, which talked about protecting air and water quality. The subdivision regulations should also talk about those things and cultural resources, fisheries and wildlife habitat. She didn't want to say the right to farm was more important than those. Environmental protection to have clean water and clean air was critical for everyone's well-being. Wally said it did. Steve R said statements were included. Nicole asked if as a general rule, a farmer needed to have permission first to burn hundreds of acres. Robert mentioned there was an open burn period. You needed a permit outside of that. Bob said they didn't ask how much you were burning. Nicole thought if they had to get permission, those who granted it could take the air quality into consideration. Sigurd said they didn't burn when there was a fire watch. Nicole said they did this year. It was shocking. If they had a reason, that was fine but it seemed a little over the top.

Wally thought Right to Farm was also a policy statement that tied together a bunch of other stuff that they did. Weed control, irrigation water, water supply, agricultural production, burning, free-ranging livestock, cows on the road were among the myriad of 'stuff' that Right to Farm affected as a matter of policy. How they dealt with those later in terms of subdivision regulations or specific rules that were more regulatory was different. This started the discussion that this mattered a lot. Steve R asked if Montana had policies on which other laws were based. For example, was there a highway safety policy on which speed limits, stop sign rules and yield rules were based? Wally pointed to health, safety and welfare. Steve R said if they needed a policy in order to base regulations that protected agriculture, they needed to come up with that policy. If this was more than they needed, maybe they needed to pare it down. Wally said it wasn't more than what they needed. It was the specifics that made it long. Simple things like the rules they put in subdivisions for the height of fences, etcetera, were a basic part of the fencing policy statements in the Right to Farm ordinance, and the facts, and the simple things like not to mow the grass in your neighbor's irrigation ditch and screw up their pumps. Those things were based on Right to Farm ordinance. They were tied together. Your basic 1 ½ page document was a lot more readable and said it was out there. The attachment they talked about were examples of what it was. For example, what was a herd district and what was the fencing requirement. When you got to specific rules, this was the kind of document that made a

statement that agriculture mattered and should be there but shouldn't be abusive or unreasonable, and listed some examples. How you used it fell up to you at a later point in time. It was a basic policy statement.

Nicole thought it was a simple way to protect farmers. Lake County was growing. They were subdividing with smaller lots of land. You had more people moving out from bigger cities to live in the country. These were a whole host of issues that they would encounter. It was going to be an issue to them. To her, this said Lake County supported their farmers because they were important. She thought that alone was valuable.

Eileen checked that they already had the fencing height and other regulations. It sounded like they were now bringing those [regulations] back into the policy. LaDana clarified they didn't have those regulations. The fence heights came from a standard of Fish, Wildlife and Parks. Wally contributed that Fish, Wildlife and Parks had a directive as did the US Fish & Wildlife Service and several conservation areas. LaDana said these weren't in the subdivision regulations or other regulations. Eileen said the County had herd districts, which would be coming back to the policy. LaDana commented that people didn't know what herd districts were. Wally described that it was a citizens' petition to stay in the boundaries of this area where you would have to fence in your cows instead of free range. Eileen thought that didn't need to be in the policy. Maybe it could be in the addendum for someone who didn't understand what it was. It already existed. Wally said this was also a commitment to educate. Janet thought it should be managed in the Growth Policy.

Bob suggested the best laws were the simplest and the clearest. This was more of a flexible document. This [policy] was a problem-solver because it was so detailed. If Nicole called the sheriff and the sheriff had one of these, the sheriff could call back with what it said. That was a good thing. It saved on bills and on wondering and also helped educate the sheriff's deputy. He was starting to think it was a good thing to have this document as detailed as it was. The ones that Wally and the staff thought of were the ones that were the most common. He liked that it was nine pages long although there was a lot of redundancy. There was a case to be made for it being this detailed. Janet thought they could put a map of the herd districts on the County website. LaDana explained that they already had that. People didn't know what it meant. Bob thought it was easy to confuse. Janet suggested adding a paragraph with the map. LaDana said these were the kind of ideas they wanted from the Board. If they didn't want the policy, they could go with something else that worked for people. Steve R thought someone would look at the map and wonder where [the County] got this. They would get it from the policy.

Janet thought it would be in the Growth Policy. Steve R asked if it mattered if these 12 pages existed or if the Growth Policy was 12 pages longer. Janet said she was trying to figure out if they needed separate documents. It was just a policy. It wasn't regulatory. LaDana pointed out the Growth Policy wasn't regulatory either. Janet said the point was they were educational. What was the best format? Did they need separate documents or did they put it all in the Growth Policy for one-stop shopping? Steve R said when it came time to put it in the Growth Policy, it would be done and they could put it in. If the Board said they would do this with the Growth Policy and adjourned, the Growth Policy project got a little longer. He thought they should continue where they were going. When some of the problems with the draft were corrected, if

they wanted to reorganize it or change things, they could do that. The Board had spent time on this particular draft. Whether they incorporated it in the Growth Policy or made a brochure out of it, they were going to use the work they'd done.

Wally liked the idea of making it shorter and putting the appendix on it after that. He mentioned Lewis and Clark County wanted a copy of what [Lake County] came up with before they did their own. There was a lot of state-wide frustration where agriculture felt people didn't support it. This was a broad statement that said they did. Per Bob's observation, this was a problem-solver. If this helped with the ag disputes out there, that would be great. If each person who bought a piece of subdivided property out there had to get a copy of this from their realtor and title company at closing, this was an educational bit. As someone who answered the phone and directed questions, Lita thought it sounded more appealing to offer someone a brochure than to offer a portion of a big document. It was friendlier for them to get a smaller thing in the mail.

Robert referred to a number of analogies. This could be considered the root of the tree, the core, the spine. It might be a long ordinance document but there were other elements and tools they could use to help it be implemented. Eileen noted that the quoted sections from MCA were actually paraphrases, which was misleading. LaDana said they could fix that. This was just a starting point. Some of the added items were more educational, based on the calls that came into the office. It did come up where regulations required someone to build 100 feet from agricultural properties. What was that based on? Currently they didn't have something to tie it to. They put it out there in a lot of subdivision approvals. Bob remarked it was hard to defend. He confirmed with LaDana that grammatical, punctuation and other proofing-type corrections would happen later.

Janet asked about fences, heights and goats. Wally confirmed that goats could get underneath the 14 inches. Janet said the Growth Policy mentioned alternative livestock such as goats were raised in Lake County as well. How did they balance that? LaDana explained the fencing was for conservation easement standards. Maybe they had to look at if there was a goat farm next door. These might not fit every scenario. Bob said he checked in with Dale Becker about wildlife-friendly fences. Dale had said FWP changed them from time to time and recommended referencing MT FWP standards for wildlife fencing rather than putting in numbers. Nicolas agreed that was the way to approach it. If you had a goat and a fence line 14 inches off the ground, you'd only make that mistake for about 2 days before you plugged up the gap. Those problems would fix themselves. Steve R read that the fencing portion said fences could be designed to stop cattle and livestock while also promoting safe passage for wildlife. It didn't say all of your fences needed to be like this. It made a suggestion for people fencing out their neighbor's cattle and allowing the wildlife in. LaDana said she got the numbers from the FWP website and confirmed it with FWP. It might be better to reference the source of the numbers.

LaDana asked what the Board would like to do. Janet said to shorten it and then have the appendices. Steve R expressed concern that if staff did another draft, it wouldn't include the changes he'd worked on. He could give LaDana notes. Janet said her comments would be specific to the FIIP project, using irrigation water for stock water and comments related to irrigation rights-of-way. She couldn't give specifics until she had a closer draft. LaDana asked

if the Board members had specifics they would like to see changed in another draft or where they would like to go.

Steve R referred to pg. 1 where 27-30-101 was quoted, only two words needed to be changed for it to be verbatim. Eileen talked about how the quote differed from the section. Steve R agreed they'd left off the first few words. The document contained statements where he would question whether or not they were true because no references accompanied them. He gave the example of the last two lines of the third paragraph on pg. 1, which sounded like an opinion. It was an arguable point. He wondered if such statements should be left out. Jerry suggested leaving out the last clause of that sentence about 'beginning to threaten...' unless that could be demonstrated. The first part of it was okay. It could stop with 'Lake County' in the third line of the paragraph. Steve R gave that as a comment he would make. He didn't want to spend the time to reword things right now. LaDana asked what the Board expected her to do with the comments. If they were only giving her a piece of what they wanted changed, she didn't know where they wanted her to go with this. She wanted to make sure she was going in the direction they wanted her to go. If something needed to be researched, staff could do that but she wanted to be sure staff time was spent well.

Bob asked if a lot of information was going to be the appendix, what would be in the beginning. Maybe the Board should indicate that stuff so LaDana could make that the first page and the rest could become the appendix. In a murmur of responses, Board members gave various comments. Steve R thought perhaps they could make a short version using pg.1 of the mailed version and pg. 2 down to the a, b, c stuff. He'd need to read it and think about it. LaDana summarized this as the Whereas stuff. Steve R said some pieces would also have to be picked out of the policy statement. He'd have to look at the whole thing as a package to see how the important statements might be pulled out and the details moved to the appendix. LaDana asked if this was something the Board members would like to try to do and talk about at the next meeting. Steve R thought they needed to recommend to the Commissioners to hire two more staff people. LaDana believed she was told there was no money.

The group talked about different ways the Board members could approach this. The question came up about whether Board members could get together to work on this and the answer was some members could meet, as long as it wasn't a quorum. Steve R thought it was easier to incorporate his comments into a Word file than to try to share his ideas here and then have LaDana interpret them. Jerry thought they should bring comments and work on it as a group at the next meeting. LaDana thought for decent discussion, they needed to work on it earlier than 10 pm. If this was the only agenda item, they could really focus on it.

OTHER BUSINESS (approx. 10:50 pm)

Steve S asked about what to say to his Growth Policy volunteers, who were eager to move forward. LaDana replied a plan was not available yet. Wally thought they might have a better idea in April.

Motion made by Rick Cothorn, and seconded by Steve Shapero, to adjourn. Motion carried, all in favor. Meeting adjourned at 10:53 pm.